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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 10/806,642  | 03/23/2004  | Tianyi Chang         | 29621/GD0003        | 2568             |
| 4743  | 7590        | 03/17/2006           | EXAMINER            |                  |
| MARSHALL, GERSTEIN & BORUN LLP<br>233 S. WACKER DRIVE, SUITE 6300<br>SEARS TOWER<br>CHICAGO, IL 60606 |             |                      | BALSIS, SHAY L      |                  |
|   |             |                      | ART UNIT            | PAPER NUMBER     |
|   |             |                      | 1744                |                  |

DATE MAILED: 03/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

| <b>Office Action Summary</b> | <b>Application No.</b> | <b>Applicant(s)</b> |  |
|------------------------------|------------------------|---------------------|--|
|                              | 10/806,642             | CHANG, TIANYI       |  |
|                              | <b>Examiner</b>        | <b>Art Unit</b>     |  |
| Shay L. Balsis               | 1744                   |                     |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 30 September 2005.

2a)  This action is **FINAL**.                            2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## **Disposition of Claims**

4)  Claim(s) 1-35 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 1-35 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on 03 March 2004 is/are: a)  accepted or b)  objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All    b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 6/25/04; 9/30/05.  
4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.  
5)  Notice of Informal Patent Application (PTO-152)  
6)  Other: \_\_\_\_.

## **DETAILED ACTION**

### ***Drawings***

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: 37 and 41 as stated in the specification as the top and bottom side (page 5). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Objections***

Claim 10 is objected to under 37 CFR 1.75 as being a substantial duplicate of claim 11. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 7, 24 and 35 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 7, 24 and 35 all include the limitation that the first set of bristles is “larger” than the second set. It is unclear what the term “larger” refers to. Does it mean larger in number? Larger in length? Larger in width? Please clarify what the first set of bristles is “larger” than on the second set.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-8, 10-11, 13-17, 19-25, 27-28 are rejected under 35 U.S.C. 102(b) as being anticipated by Nakamura (USPN 6341611).

Nakamura teaches a hairbrush comprising a body (2) having a first end and second end. There is a brush head on the first end of the body, where the brush head has a first side, a second side and a perimeter. There is a first set of bristles (3) disposed on the first side of the head and a second set of bristles (5) located between the first set of bristles and the perimeter. The first set of bristles is stiffer and harder than the second set (col. 4, lines 34-41). There is a handle (1) located near the second end of the body. The first set of bristles is wider and larger than the

second set (figure 8 shows how the width, 4, of the first set exceeds the width, 6, of the second set). The first set of bristles is longer than the second set (figure 8). The ends of the first set of bristles are generally spherical or rounded (figure 8). The head of the brush contains apertures for receiving the first and second sets of bristles. The second set of bristles partially encircles the first set of bristles (figure 7 shows how the first set of bristles are not encompassed fully by the second set of bristles). The brush head, the first set of bristles and the second set of bristles have corresponding shapes. The head is rectangular as is the first and second set of bristles.

Claims 1-8, 10-12, 14-25, 27-28 are rejected under 35 U.S.C. 102(e) as being anticipated by Chen (USPN 6735808).

Chen teaches a hairbrush comprising a body (5) having a first end and second end. There is a brush head (6, 7) on the first end of the body, where the brush head has a first side, a second side and a perimeter. There is a first set of bristles (62) disposed on the first side of the head and a second set of bristles (73) located between the first set of bristles and the perimeter. The first set of bristles is stiffer and harder than the second set (the first is used for massaging and the second is used for cleaning). There is a handle (52) located near the second end of the body. The first set of bristles is wider than the second set (figure 7 shows how each individual massaging bristle is wider than the individual cleaning bristle). The first set of bristles is longer than the second set (figure 7). The first set of bristles individually is larger than the individual bristles of the second set. The ends of the first set of bristles are generally spherical or rounded (figure 7). The head of the brush contains apertures for receiving the first and second sets of bristles. The second set of bristles partially completely encircles the first set of bristles (figure 4). The brush head, the first set of bristles and the second set of bristles have corresponding

shapes. The head is circular and the first set of bristles form a circular shape, as does the second set of bristles.

Claims 1-2, 5-6, 8-12, 14-20, 23, 25-30, 33-34 are rejected under 35 U.S.C. 102(b) as being anticipated by Duyck (BE 1007329 A6).

Duyck teaches a hairbrush comprising a body (1) having a first end and second end. There is a brush head (8) on the first end of the body, where the brush head has a first side, a second side and a perimeter. There is a first set of bristles (4) disposed on the first side of the head and a second set of bristles (2, 3) located between the first set of bristles and the perimeter. The first set of bristles is stiffer and harder than the second set (the first is used for massaging and the second is used for untangling). There is a handle (1') located near the second end of the body. The ends of the first set of bristles are generally spherical or rounded (figure 2). The head of the brush comprises a cushion (6). The head of the brush contains apertures for receiving the first and second sets of bristles. The second set of bristles partially completely encircles the first set of bristles (figure 1). The brush head, the first set of bristles and the second set of bristles have corresponding shapes. The head is circular and the first set of bristles form a circular shape, as does the second set of bristles.

#### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 29-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chen in view of Duyck.

Chen teaches all the essential elements of the claimed invention as stated above however fails to teach that the brush comprises a cushion pad. Duyck teaches a brush with massaging elements connected to a conventional pneumatic cushion. It would have been obvious to modify the bristles of Chen so they are attached to a pneumatic cushion pad as taught by Duyck.

Pneumatic cushions are well known in the art of brushes. Pneumatic cushions are used frequently in hairbrushes and body brushes so that the bristles will conform to the curvatures of a user's body. The cushion pad allows for flexibility of the bristles so that when in use the brush fully adjusts to ensure complete contact of the bristles to the head or other body parts.

*Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shay L. Balsis whose telephone number is 571-272-1268. The examiner can normally be reached on 7:30-5:00 M-Th, alternating F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gladys Corcoran can be reached on 571-272-1214. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*Shalin*

Slb  
3/14

*Gladys S.P. Corcoran*  
GLADYS S.P. CORCORAN  
PRIMARY EXAMINER